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# U.S. House of Representatives

## COMMITTEE ON VETERANS' AFFAIRS

ONE HUNDRED SIXTEENTH CONGRESS

B-234 LONGWORTH HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

<http://veterans.house.gov>

September 30, 2019

The Honorable Robert Wilkie  
Secretary  
Department of Veterans Affairs  
810 Vermont Ave, NW  
Washington, DC 20420

Dear Mr. Secretary:

We write to raise serious concerns regarding the key Department of Veterans Affairs (VA) office responsible for investigating whistleblower allegations and retaliation. Based on our observations and conversations with VA employees, the Office of Accountability and Whistleblower Protection (OAWP) is showing itself to be ineffective in fulfilling its primary duties.

As you know, Congress established OAWP in June of 2017, to provide critically needed accountability and whistleblower protection.<sup>1</sup> The intent was for VA employees to have a place within the Department where their allegations would be taken seriously, investigated, and, if substantiated, acted upon.

However, based on recent hearings and inquiries by the Subcommittee on Oversight and Investigations, we determined that OAWP has failed to meet its most basic performance requirements.

OAWP's primary mission under law is to provide a central clearinghouse for VA to both respond to whistleblower allegations and provide protection to whistleblowers during investigations. Specifically, OAWP is to receive whistleblower disclosures, investigate the allegations, and then provide recommendations for proposed actions to the Secretary. For instance, if OAWP's investigation determines a senior official retaliated against a whistleblower, the Assistant Secretary is able to recommend appropriate disciplinary action, such as suspension or termination.

We were shocked to learn that the number of recommendations made since January of this year was "zero." Our understanding is that not a single proposal for action was transmitted to you from the Assistant Secretary.<sup>2</sup> OAWP leadership has stated that the Office is attempting to improve the quality and efficiency of its whistleblower allegation reviews and has, therefore, slowed down the pace of actions. However, providing no recommendations is not acceptable.

<sup>1</sup> Department of Veterans Affairs Accountability and Whistleblower Protecting Act of 2017, Public Law 115-41, June 23, 2017.

<sup>2</sup> Interviews with OAWP staff by Oversight and Investigations staff, House Committee on Veterans' Affairs, September 11, 2019.

OAWP is also required to provide training to VA employees on the rights of whistleblowers. However, it is unclear whether any of this training is proceeding. In fact, we understand that the Office only hopes to have basic training procedures developed by the end of the year.

We also see the ongoing intervention into OAWP operations by the Office of General Counsel (OGC) as very troubling. Congress intended for OAWP to perform its duties independently and without interference. However, the current review of investigative cases by the OGC on a routine basis removes an important firewall between the same group of lawyers who ultimately may defend officials regarding disciplinary action and the staff conducting the investigations. The OGC staff should also have no role in influencing hiring or policy making decisions. However, an OGC official is currently detailed as the equivalent of deputy to the OAWP assistant secretary and is heavily involved in major decisions.

Further, OAWP is charged with tracking the recommendations made by both the VA Office of Inspector General (OIG) and the U.S. Government Accountability Office (GAO) for improvements and other actions to be taken by the Department. OAWP has testified that it has not yet established even a rudimentary tracking process.<sup>3</sup> The status of both OIG and GAO recommendations are available online, so it is unclear why this is taking so much time.

Finally, the Committee understands that during the past few months, OAWP has lost many of its staff, including almost all its senior managers. While we understand that departure of staff could be for many reasons, we are concerned about this trend. It is particularly concerning given our awareness that multiple OAWP employees have filed whistleblower complaints about OAWP, including alleged retaliations, with the Office of Special Counsel.<sup>4</sup>

OAWP's mission is critical to our nation's veterans. Whistleblowers should have the confidence that VA will investigate disclosures and that they will receive protection against retaliation. However, OAWP is simply not performing its required duties. We urge you to quickly examine the workings and outcomes of the office and ask that you report to Congress on the actions the Department will take to correct the situation.

Thank you in advance for your attention to these concerns. We look forward to hearing from you.

Sincerely,



Mark Takano  
Chairman



Chris Pappas  
Chairman  
Subcommittee on Oversight and Investigations

<sup>3</sup> Testimony of Dr. Tamara Bonzanto before the Oversight and Investigations Subcommittee, House Committee on Veterans' Affairs, July 23, 2019

<sup>4</sup> Interviews with OAWP whistleblowers by Oversight and Investigations staff, House Committee on Veterans' Affairs, August through September of 2019.